IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 34010 of 2004(W)

AGAINST THE ORDER DATED 13/10/2004 IN IA.NO.1086/2004 & 1087/04 IN CS.87/2003 of SUB COURT,KOTTARAKKARA

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PETITIONER:

ABRAHAM VARKEY, S/O.ABRAHAM, AGED 56,
RESIDING AT THOTTUKAL PEEDIKAYIL, PUNNAMKUMMAM MURI,
THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.K.S.SAJEEV KUMAR

RESPONDENTS:

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1. SAJI DANIEL, S/O.DANIEL, CHELLAKKATTU HOUSE, CANAL JUNCTION AGASTHICODE MURI, ANCHAL VILLAGE.

2. K.B.CHACKO, S/O.T.CHACKO, RESIDING AT T.C.11/1759-1, KUNNUVILA BUNGLOW, CHARACHIRA ROAD, KOWDIAR MURI, THIRUVANANTHAPURAM.

3. BIJU.P. S/O.PAPPACHAN, R/A. PALLIPADI-NJATTOTHIL, CANAL JUNCTION, AGASTHICODE MURI, ANCHAL VILLAGE.

4. SAJI THOMAS, R/A. KANNUKIZHAKKETHIL VEEDU, ANCHAL KARA, ANCHAL VILLAGE.

5. ROSAMMA CHACKO, W/O.K.B.CHACKO, T.C.11/1759-1, KUNNUVILA BUNGLOW, KAWDIAR MURI, THIRUVANANTHAPURAM.

6. ROBIN CHACKO, S/O.K.B.CHACKO OF DO.

7. JOBIN CHACKO, S/O.K.B.CHACKO DO. DO.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.34010 OF 2004

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DATED THIS THE 18TH JUNE, 2007

J U D G M E N T

This Writ Petition is remaining defective on the reason that though notice on admission was issued as far back as on 26.11.2004, the petitioner has not remitted process. The learned counsel for the petitioner seeks time on the reason that the file is misplaced.

2. In all probability the file has been returned to the counsel in the court below since this Court did not grant stay. I find from Ext.P4 impugned order that under that order the court has only allowed impleadment of additional defendants and permitted incorporation of certain amendments found necessary by the court below. Having regard to the principles to govern exercise of power under Order VI Rule 17 C.P.C., I do not find any warrant for interfering with Ext.P4 under Article 227. Moreover, it is seen that the trial of the suit was permitted to go on and in all probability the Writ Petition has become infructuous. The Writ Petition will stand dismissed on that basis.

(PIUS C.KURIAKOSE, JUDGE)

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